

REMARKS

This is a full and timely response to the Office Action mailed August 20, 2003, submitted concurrently with a Petition for Extension of Time to within the first month extended due date of December 20, 2003.

By this Amendment, claims 1 and 3-6 were amended to correct improper multiple dependency and to more particularly define the present invention. Support for claim amendments can be found variously throughout the specification, see for example, the original claims and drawings (nozzle 120 and mesh member 116 below nozzle). Claims 1-6 are pending in this application.

In view of this Amendment, Applicant believes that all pending claims are in condition for allowance. Reexamination and reconsideration in light of the above amendments and the following remarks is respectfully requested.

Claim of Priority

Applicant wishes to thank the Examiner for his acknowledgement of Applicant's claim for foreign priority. The filing of the certified priority papers will be made once they are obtained.

Claim Objections

Claims 4-6 are objected to under 37 CFR 1.75(c) as being in improper multiple dependent form. By this Amendment, claim 3-6 have been amended to overcome this objection. Thus, withdrawal of this objection is requested.

Rejections under 35 U.S.C. §103

Claims 1-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Treu et al. (U.S. patent 5,788,099) in view of Jonsson et al. (U.S. Patent 4,784,495). Applicant respectfully traverses this rejection.

To establish a *prima facie* case of obviousness, the cited reference in combination must teach or suggest the invention as a whole, including all the limitation of the claims. Here, in the case, the combination of the cited references does not teach that the tip of the nozzle is

directed downward and water is injected downwardly onto the mesh on which the powder medicament has fallen.

Although water is injected from the nozzle to mix the powder medicament with water in both Treu et al. and the present invention, the tip of the nozzle in Treu et al. is directed upward and water is injected upwardly into the vessel 250 to rinse the interior of the vessels 250 having an opening directed downward, as recited on column 6, lines 6 - 17 and Figs. 5A to 5c in Treu et al.

In contrast, the tip of the nozzle of the present invention is directed downward and water is injected downwardly onto the mesh on which the powder medicament has fallen by gravity to produce a concentrated liquid for the dialysis liquid.

Although the powder medicament is mixed with water in Treu et al., the mesh (which is only taught in Jonsson et al. and not in Treu et al.) would have been placed above and not below the nozzle as the combined teachings of both references. Thus, the cooperative action between the mesh and the downwardly injected water which promotes the mixture of the powder medicament with water in the present invention cannot be expected from the teachings and suggestions of the cited references.

It is important to note that Jonsson et al. disclose meshes (filter 12) in column 5, lines 59 - 61 and in Figs. 1 – 3 of the reference. However, the meshes used in Jonsson et al. serve as partition walls to define the interior of the vessel, in which the powder medicament is present. Thus, Jonsson et al. clearly do not teach or suggest placing the mesh (on which the powder medicament falls and is mixed with water) below the nozzle. As a result, the cooperative action between the mesh and the downwardly injected water which promotes the mixture of the powder medicament with water is not taught or suggested in Jonsson et al.

To clarify this distinction between the claimed invention and the cited references, Applicant have amended claim 1 to more particularly define that the nozzle applies “*water downward to the powder preparation*”.

Thus, in view of the above remarks and foregoing amendments to claim 1, this rejection can no longer be sustained and should be withdrawn.

CONCLUSION

For the foregoing reasons, all of the claims now pending in the present application are believed to be clearly patentable over the outstanding rejections. Accordingly, favorable reconsideration of the claims in light of the above remarks is courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

Dated: December 19, 2003

Respectfully submitted,

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